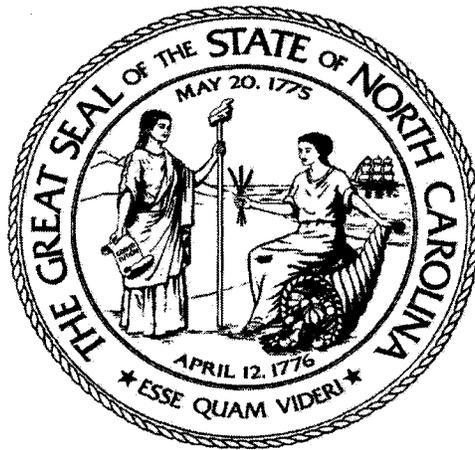


LEGISLATIVE RESEARCH COMMISSION
COMMITTEE ON MARINE FISHERIES
NORTH CAROLINA GENERAL ASSEMBLY



**REPORT TO THE
2012 SESSION
of the
2011 GENERAL ASSEMBLY
OF NORTH CAROLINA**

APRIL 5, 2012

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TRANSMITTAL LETTER

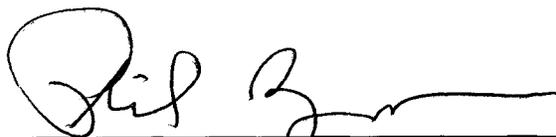
May 16, 2012

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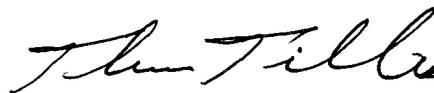
TO THE MEMBERS OF THE 2012 REGULAR SESSION
OF THE 2011 GENERAL ASSEMBLY

The Legislative Research Commission herewith submits to you for your consideration its report and recommendations to the 2012 Regular Session of the 2011 General Assembly. The report was prepared by the Legislative Research Commission's Committee on Marine Fisheries, pursuant to G.S. 120-30.70(1).

Respectfully submitted,



Senator Philip E. Berger
President Pro Tempore of the Senate



Representative Thomas R. Tillis
Speaker of the House of Representatives

Co-Chairs
Legislative Research Commission

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LEGISLATIVE RESEARCH COMMISSION MEMBERSHIP

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2011 – 2012

President Pro Tempore of the Senate

Senator Philip E. Berger
Co-Chair

Senator Thomas M. Apodaca
Acting Co-Chair

Senator Peter S. Brunstetter
Senator Linda D. Garrou
Senator Martin L. Nesbitt, Jr.
Senator Richard Y. Stevens

Speaker of the House of Representatives

Representative Thomas R. Tillis
Co-Chair

Representative Timothy K. Moore
Acting Co-Chair

Representative John M. Blust
Representative Justin P. Burr
Representative Mike D. Hager
Representative Edith D. Warren

PREFACE

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The Legislative Research Commission, established by Article 6B of Chapter 120 of the General Statutes, is the general purpose study group in the Legislative Branch of State Government. The Commission is co-chaired by the President Pro Tempore of the Senate and the Speaker of the House of Representatives and has five additional members appointed from each house of the General Assembly. Among the Commission's duties is that of making or causing to be made, upon the direction of the General Assembly, "such studies of and investigation into governmental agencies and institutions and matters of public policy as will aid the General Assembly in performing its duties in the most efficient and effective manner" (G.S. 120-30.17(1)).

The Legislative Research Commission authorized the study of Marine Fisheries, under authority of G.S. 120-30.17(1). The Committee was chaired by Senator Harry Brown and Representative Darrell McCormick, Co-Chairs of the Committee. The full membership of the Committee is listed under [Committee Membership](#). A Committee notebook containing the Committee minutes and all information presented to the committee will be filed in the Legislative Library by the end of the **2011-2012** biennium.

Copies of the presentations made and handouts distributed to the Committee are available at the Committee website:

<http://www.ncleg.net/gascripts/DocumentSites/browseDocSite.asp?nID=175>

COMMITTEE PROCEEDINGS

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The Legislative Research Commission's Committee on Marine Fisheries met four times after the 2011 Regular Session. The Committee's Charge can be found [here](#). The following is a brief summary of the Committee's proceedings. Detailed minutes and information from each Committee meeting are available in the Legislative Library or [online](#).

January 5, 2012

AGENDA

1:00 p.m. Thursday

Room 643 Legislative Office Building

Raleigh, North Carolina

1. Call to order
Senator Brown, Presiding
2. Introductory remarks by Cochairs
Senator Harry Brown
Representative Darrell G. McCormick
3. Introduction of members and staff
4. Review of Committee Charge
Jeff Hudson, Committee Counsel
5. Adoption of Committee Budget
6. Overview of fisheries management agencies in North Carolina
Jeff Hudson, Committee Counsel
7. Overview of budgets and funding of fisheries management agencies in North Carolina
Lanier McRee, Fiscal Analyst
8. Overview of the Division of Marine Fisheries of the Department of Environment and Natural Resources and the management of marine fisheries in North Carolina
Louis Daniel, Director
Division of Marine Fisheries, Department of Environment and Natural Resources
9. Overview of the Wildlife Resources Commission and the management of inland fisheries and game in North Carolina
Gordon Meyers, Executive Director

Wildlife Resources Commission

10. Commission discussion and announcements
11. Adjourn

The first meeting of the Legislative Research Commission's Committee on Marine Fisheries was held on January 5, 2012 at 1:00 p.m. in Room 643 of the Legislative Office Building. Senator Brown presided.

Mr. Jeff Hudson, Committee Counsel, explained the Committee Charge and the Committee Budget and provided an overview of fisheries management in North Carolina. Mr. Hudson discussed jurisdictional differences between State and federal fisheries management. He then outlined and explained the duties of the three main agencies responsible for fisheries and wildlife management in North Carolina: 1) the Marine Fisheries Commission, 2) the Division of Marine Fisheries, 3) and the Wildlife Resources Commission.

Ms. Lanier McRee, Committee Fiscal Analyst, explained the mission statements of the fisheries and wildlife management agencies and provided budget and spending information for the agencies.

Dr. Louis Daniel, Director of the Division of Marine Fisheries (DMF) of the Department of Environment and Natural Resources (DENR), gave an overview of DMF and the management of marine fisheries in North Carolina. Dr. Daniel's presentation included information about DMF's staff, their procedures, and an overview of North Carolina's fish and wildlife regulatory structure. Dr. Daniel explained the fisheries management process under the Fisheries Reform Act of 1997 (FRA). Dr. Daniel also discussed various species of fish in North Carolina, fish mortality rates, and potential economic impacts of both recreational and commercial fishing.

The Committee discussed public input in the fisheries management process, the health of specific fisheries, overfishing, fish mortality, and fisheries education programs.

Mr. Gordon Myers, Executive Director of the Wildlife Resources Commission (WRC) gave an overview of the WRC and the management of inland fisheries and game in North Carolina. Mr. Myers explained that the WRC's primary charge is to conserve fish and wildlife resources and protect their habitats. Mr. Myers further explained the WRC's various programs, which include law enforcement, wildlife management, inland fisheries, conservation education, administrative sections, and engineering services.

The Committee discussed the amount of time the WRC's staff spends in the field and the publication of Wildlife Magazine.

February 2, 2012

AGENDA

1:00 p.m. Thursday

Room 643 Legislative Office Building

Raleigh, North Carolina

1. Call to order
Representative Darrell McCormick, Presiding
2. Introductory remarks by Cochairs
Representative Darrell McCormick
Senator Harry Brown
3. Overview of organization of fisheries management agencies in other states
Jeff Hudson, Committee Counsel
4. Overview of gamefish designations in other states
Jeff Hudson, Committee Counsel
5. Comments from stakeholders on the contributions of fishing activity to the State and how gamefish designations in North Carolina might affect those contributions
Commercial Fishing Stakeholders
Sean McKeon, President
North Carolina Fisheries Association

Willie Etheridge III, Owner
Etheridge Seafood, Wanchese, North Carolina

Bill Hitchcock, Host
Saltwater Catch Radio Show

Recreational Fishing Stakeholders
Recreational Fishing Guides
Seth Vernon, Owner
Double Haul Guide Service, Wilmington, North Carolina

Captain Richard Andrews, Inshore Guide
Tar-Pam Guide Service, Washington, North Carolina

Retail Tackle Shops
Donald Willis, Jr., Owner
Custom Marine and Fabrication, New Bern, North Carolina

Chris Medlin, Owner
East Coast Sports, Surf City, North Carolina

Boat Builders

Jim Hardin, Compliance Manager
Grady White Boats, Greenville, North Carolina

Robin Parker Wynn, Owner
Parker Boats, Beaufort, North Carolina

Recreational Fisherman

Ray Brown
Goldsboro, North Carolina

6. Overview of the menhaden fishery and prohibitions on taking menhaden
Louis Daniel, Director
Division of Marine Fisheries, Department of Environment and Natural Resources
7. Presentation of fishery management recommendations from the Division of Marine Fisheries
Louis Daniel, Director
Division of Marine Fisheries, Department of Environment and Natural Resources
8. Committee discussion of potential recommendations regarding reforms to fisheries management in North Carolina
9. Adjourn

The second meeting of the Legislative Research Commission's Committee on Marine Fisheries was held on February 2, 2012 at 1:00 p.m. in Room 643 of the Legislative Office Building. Representative McCormick presided.

Mr. Jeff Hudson, Committee Counsel, gave an overview of the organization of fisheries management agencies and gamefish designations in other states.

The Committee received comment from nine stakeholders and representatives of the fishing community, including commercial fisherman, recreational fisherman, retail tackle shops, and boat builders. The stakeholders discussed the contributions of fishing activities to the State and how gamefish designations in North Carolina might affect those contributions.

Dr. Louis Daniel, Director, Division of Marine Fisheries (DMF), Department of Environment and Natural Resources (DENR), provided background information and gave an overview on the menhaden fishery and prohibitions on taking menhaden. Dr. Daniel discussed the importance of menhaden to the North Carolina commercial fishing industry.

The Committee discussed the impact of the reduction fishery on menhaden populations, overfishing of menhaden, restrictions on fisheries in other states, and the current status of menhaden. There was additional discussion of DMF's position on the gamefish bill, the status of sturgeon as an endangered species, and the federal requirements of the Endangered Species Act.

Dr. Daniel provided DMF's fishery management recommendations. Dr. Daniel specifically discussed monitoring programs for endangered species interactions. According to Dr. Daniel, the fishing industry is difficult and expensive to monitor without a corresponding licensing program, as observer programs are costly. Dr. Daniel said that it currently costs the State \$1 million to monitor endangered sea turtles. Dr. Daniel then provided the Committee with DMF's proposed modifications to the Fisheries Reform Act. DMF believes that the proposed modifications will increase the efficiency and effectiveness of the fisheries management process. The proposed modifications fall into the following categories:

- Marine Fisheries Commission
- Marine Fisheries Commission Advisory Committee Consolidation
- Fishery Management Plans
- Joint Legislative Commission on Governmental Operations Review of Fishery Management Plans
- Limited Entry
- Licenses
- License and Permit Fees
- Civil Penalties
- Coastal Habitat Protection Plan
- Protected Species

March 1, 2012

AGENDA

1:00 p.m. Thursday

Room 643 Legislative Office Building
Raleigh, North Carolina

1. Call to order
Senator Harry Brown, Presiding
2. Introductory remarks by Cochairs
Senator Harry Brown
Representative Darrell McCormick
3. Adoption of the minutes from the January 5, 2012 Committee meeting
4. Committee discussion of potential recommendations to the Legislative Research Commission and the 2012 Regular Session of the General Assembly

- Transfer Marine Fisheries Management to the Wildlife Resources Commission
 - Transfer enforcement of fish dealer activities to the Department of Agriculture and Consumer Services
 - Provide funding/support to the Department of Agriculture and Consumer Services for expanded seafood marketing
 - Prohibit certain commercial harvesting of menhaden
 - Establish a legislative oversight commission with jurisdiction over fish and wildlife management
5. Adjourn

The third meeting of the Legislative Research Commission's Committee on Marine Fisheries was held on March 1, 2012 at 1:00 p.m. in Room 643 of the Legislative Office Building. Senator Brown presided.

The Committee discussed the following potential recommendations to the Legislative Research Commission and the 2012 Regular Session of the General Assembly.

Transfer Marine Fisheries Management to the Wildlife Resources Commission

The Committee discussed different organizational structures of fisheries and wildlife management agencies in other states and how they compare to North Carolina. There was additional discussion on the proposed organizational structure of the Division of Marine Fisheries (DMF) if transferred to the Wildlife Resources Commission (WRC).

Several Committee members were concerned about duplication of enforcement and suggested that a transfer could potentially address duplication and make enforcement more efficient. The Committee also discussed cost savings that could be realized by a potential reorganization.

Several Committee members expressed concerns with a possible transfer without further study. They said that such a transfer would be premature and if problems with marine fisheries management exist, they should be dealt with before a possible transfer takes place. There was discussion of possibly forming a subcommittee to study these issues, as these issues are comprehensive and complex.

The Committee discussed whether or not fisheries should be treated as a commodity, similar to agricultural products. If the fisheries were commodity-based, jurisdiction over them could be transferred to the Department of Agriculture and Consumer Services (DACS), as DACS advocates for many North Carolina agricultural commodities. Several members questioned whether fish are a commodity or a public trust resource.

There was Committee discussion on whether moving DMF to WRC would be a "transfer" or a "merger." Several Committee members asked about the current organizational structure of DMF and WRC.

Dr. Louis Daniel, Director of DMF of the Department of Environment and Natural Resources (DENR), explained the various jurisdictional issues between DMF and WRC.

With regard to dual enforcement, Representative Spear added that it's not duplicative; it's the way the waters are classified.

With regard to fish being treated as a commodity or a public trust, Dr. Daniel explained that fish are a public trust resource, not a commodity. In that respect, fish are similar to duck, quail, bear, and other wildlife.

Mr. Gordon Myers, Executive Director of WRC, addressed the members. Mr. Myers reiterated the various organizational structures in other states. He noted that the WRC wants to maintain its operating structure.

Transfer enforcement of fish dealer activities to the Department of Agriculture and Consumer Services

The Committee discussed the possibility of transferring jurisdiction over fish dealer activities to the Commissioner of Agriculture.

Dr. Daniel explained that transferring fish dealer activities to DACS would have a tremendous impact on DMF, specifically with regard to DMF's interactions with fish dealers. The DMF monitors fish quotas on a daily basis, which is a critical component of their job. Transferring these activities would remove DMF's ability to monitor the quotas. Dr. Daniel explained that he would be forced to shut down fisheries, as he wouldn't be able to demonstrate State compliance with federal quotas and other requirements.

Provide funding/support to the Department of Agriculture and Consumer Services for expanded seafood marketing

The Committee discussed the lack of funding for such a recommendation.

Prohibit certain commercial harvesting of menhaden

Several Committee members expressed concern about the depletion and current stock status of menhaden. Menhaden is an important bait fish in North Carolina.

Dr. Daniel explained the location of menhaden production, the reduction fishery, and the bycatch problems associated with menhaden. Dr. Daniel indicated that the Atlantic

States Marine Fisheries Commission (ASMFC) will likely place restrictions on menhaden. Dr. Daniel said the ASMFC's report will be issued in May 2012.

Establish a legislative oversight commission with jurisdiction over fish and wildlife management

The committee did not discuss this agenda item.

Dredging

The Chair added discussion of dredging to the agenda.

Mr. Warren Judd, Chairman of the Dare County Commissioners, discussed Dare County's study on the economic impact of the Oregon Inlet. According to Mr. Judd, 70 million pounds of fish are transported through Oregon Inlet each year and \$45 million in federal taxes and \$43 million in State taxes are generated. The inlet is an important roadway for fisherman and is valuable to the economy.

There was some Committee discussion of possibly funding a jetty project in order to keep the inlet open, as a jetty could eliminate the need for dredging. Several Committee members referenced the marine fuel tax and the possibility of a natural resources tax to fund dredging, building a jetty, and maintaining public beaches.

April 5, 2012

The fourth meeting of the Legislative Research Commission's Committee on Marine Fisheries was held on April 5, 2012 at 1:00 p.m. in Room 643 of the Legislative Office Building. Senator Brown presided. The Committee adopted this report.

COMMITTEE MEMBERSHIP

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2011-2012

President Pro Tempore of the Senate
Appointments:

Senator Harry Brown, Co-Chair

Senator Don W. East
Senator Thom Goolsby
Senator Brent Jackson
Senator Jean R. Preston
Senator William P. Rabon
Senator Tommy Tucker
Senator Stanford M. White

Speaker of the House of Representatives
Appointments:

Representative Darrell G. McCormick, Co-Chair

Representative Bryan R. Holloway
Representative Dan W. Ingle
Representative Daniel F. McComas
Representative Pat McElraft
Representative Tom Murry
Representative Ruth Samuelson
Representative Tim L. Spear

COMMITTEE CHARGE

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Marine Fisheries - Study issues relating to marine fisheries. Specifically, the subcommittee may study the following:

1. Potential impact to both the State's fisheries resources and the State's economy related to the designation of Red Drum (*Sciaenops ocellatus*), Spotted Sea Trout (*Cynoscion nebulosus*), and Striped Bass (*Morone saxatilis*) as coastal game fish.
2. Changes to the appointment process and qualification for membership on the North Carolina Marine Fisheries Commission.
3. Creation of a hook and line commercial fishery.
4. Elimination of the trawl boat fishery in North Carolina.
5. Entering into reciprocal agreements with other jurisdictions with regard to the conservation of marine and estuarine resources; and regulating placement of nets and other sports or commercial fishing apparatus in coastal fishing waters with regard to navigational and recreational safety as well as from a conservation standpoint.
6. Entering into agreements regarding the delegation of law enforcement powers from the National Marine Fisheries Service over matters within the jurisdiction of the Service.
7. Potential modification of the Fisheries Reform Act of 1997.
8. Whether Marine Fisheries should be a division of the Coastal Resources Commission or Wildlife Resources Commission.
9. Other findings that promote the allocation of the State's resources to the optimum use.

STATUTORY AUTHORITY

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NORTH CAROLINA GENERAL STATUTES ARTICLE 6B.

Legislative Research Commission.

§ 120-30.17. Powers and duties.

The Legislative Research Commission has the following powers and duties:

- (1) Pursuant to the direction of the General Assembly or either house thereof, or of the chairmen, to make or cause to be made such studies of and investigations into governmental agencies and institutions and matters of public policy as will aid the General Assembly in performing its duties in the most efficient and effective manner.
- (2) To report to the General Assembly the results of the studies made. The reports may be accompanied by the recommendations of the Commission and bills suggested to effectuate the recommendations.
- (3), (4) Repealed by Session Laws 1969, c. 1184, s. 8.
- (5), (6) Repealed by Session Laws 1981, c. 688, s. 2.
- (7) To obtain information and data from all State officers, agents, agencies and departments, while in discharge of its duty, pursuant to the provisions of G.S. 120-19 as if it were a committee of the General Assembly.
- (8) To call witnesses and compel testimony relevant to any matter properly before the Commission or any of its committees. The provisions of G.S. 120-19.1 through G.S. 120-19.4 shall apply to the proceedings of the Commission and its committees as if each were a joint committee of the General Assembly. In addition to the other signatures required for the issuance of a subpoena under this subsection, the subpoena shall also be signed by the members of the Commission or of its committee who vote for the issuance of the subpoena.
- (9) For studies authorized to be made by the Legislative Research Commission, to request another State agency, board, commission or committee to conduct the study if the Legislative Research Commission determines that the other body is a more appropriate vehicle with which to conduct the study. If the other body agrees, and no legislation specifically provides otherwise, that body shall conduct the study as if the original authorization had assigned the study to that body and shall report to the General Assembly at the same time other studies to be conducted by the Legislative Research Commission are to be reported. The other agency shall conduct the transferred study within the funds already assigned to it.

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LEGISLATIVE PROPOSALS

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GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2011

U

D

BILL DRAFT 2011-SBz-30 [v.5] (03/07)

(THIS IS A DRAFT AND IS NOT READY FOR INTRODUCTION)
4/5/2012 3:06:17 PM

Short Title: Study Reorganization of Fish & Wildlife Mgmt.

(Public)

Sponsors:

Referred to:

1 A BILL TO BE ENTITLED

2 AN ACT TO DIRECT THE EXECUTIVE DIRECTOR OF THE WILDLIFE
3 RESOURCES COMMISSION, THE DIRECTOR OF THE DIVISION OF
4 MARINE FISHERIES OF THE DEPARTMENT OF ENVIRONMENT AND
5 NATURAL RESOURCES, AND THE COMMISSIONER OF
6 AGRICULTURE TO JOINTLY STUDY THE REORGANIZATION OF
7 FISH AND WILDLIFE MANAGEMENT IN THE STATE.

8 The General Assembly of North Carolina enacts:

9 SECTION 1. It is the intent of the General Assembly to gather
10 information on abolishing the current Marine Fisheries Commission, transferring
11 its powers and duties to the Wildlife Resources Commission, and merging all
12 powers, duties, functions, and personnel of the Division of Marine Fisheries of the
13 Department of Environment and Natural Resources and the Wildlife Resources
14 Commission into a new Fish and Wildlife Resources Commission effective July 1,
15 2013. Prior to October 1, 2012, the Commissioner of Agriculture is authorized to
16 review and identify positions or duties regarding fisheries resource management
17 currently carried out by the Marine Fisheries Commission or the Division of
18 Marine Fisheries of the Department of Environment and Natural Resources that
19 are within the scope of the overall mission of the Department of Agriculture and
20 Consumer Services.

21 SECTION 2. The Executive Director of the Wildlife Resources
22 Commission, the Director of the Division of Marine Fisheries of the Department

1 of Environment and Natural Resources, and, where appropriate, the Commissioner
2 of Agriculture shall, in consultation with various user groups, examine ways to:

- 3 (1) Provide for the efficient and effective transfer of all statutory
4 authority, powers, duties, and functions, including but not limited
5 to rule making, licensing, and the rendering of findings, orders,
6 and adjudications.
- 7 (2) Provide for the efficient and effective transfer and consolidation
8 of all records, personnel, property, and unexpended balances of
9 appropriations, allocations, or other funds. This component of the
10 study shall specifically:
 - 11 (a) Provide a detailed description of the proposed
12 organization of the reorganized agencies.
 - 13 (b) Identify any areas of overlap between programs or
14 personnel.
 - 15 (c) Provide for the consolidation of law enforcement
16 functions.
 - 17 (d) Identify a target reduction of five percent (5%) in
18 personnel and budgetary spending to be achieved by the
19 reorganization.
- 20 (3) Provide for the uninterrupted and unimpaired continuation of all:
 - 21 (a) Services provided by the agencies.
 - 22 (b) Rules adopted or implemented by the agencies.
 - 23 (c) Contracts or other obligations entered into by either
24 agency.
 - 25 (d) Proceedings to which either agency is a party.
- 26 (4) Identify all statutory, rule, and policy changes that would be
27 necessary to reorganize fish and wildlife management in the
28 State.
- 29 (5) Identify and address any other issues necessary to implement
30 Section 1 of this act.

31 **SECTION 3.** The Executive Director of the Wildlife Resources
32 Commission, the Director of the Division of Marine Fisheries of the Department
33 of Environment and Natural Resources, and, if appropriate, the Commissioner of
34 Agriculture shall jointly report on the study conducted pursuant to Section 2 of
35 this act to the Legislative Research Commission Committee on Marine Fisheries
36 no later than October 1, 2012.

37 **SECTION 4.** This act is effective when it becomes law.

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2011

U

D

BILL DRAFT 2011-SBz-31 [v.3] (03/10)

(THIS IS A DRAFT AND IS NOT READY FOR INTRODUCTION)
4/5/2012 3:11:08 PM

Short Title: Study Coastal Fishing & Boating License Fees.

(Public)

Sponsors:

Referred to:

A BILL TO BE ENTITLED

AN ACT TO DIRECT THE DIRECTOR OF THE DIVISION OF MARINE FISHERIES OF THE DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES AND THE EXECUTIVE DIRECTOR OF THE WILDLIFE RESOURCES COMMISSION TO JOINTLY STUDY FEES ASSOCIATED WITH THE ISSUANCE OF COASTAL FISHING LICENSES AND THE NUMBERING AND TITLING OF VESSELS.

The General Assembly of North Carolina enacts:

SECTION 1. It is the intent of the General Assembly to provide funding for the dredging and maintenance of the State's coastal inlets from fees charged to those who make use of the inlets.

SECTION 2. In order to identify possible sources of funds for the purposes set out in Section 1 of this act, the Director of the Division of Marine Fisheries of the Department of Environment and Natural Resources and the Executive Director of the Wildlife Resources Commission shall jointly study the fees associated with the issuance of coastal fishing licenses pursuant to Chapter 113 of the General Statutes and the numbering and titling of vessels pursuant to Chapter 75A of the General Statutes.

(1) For coastal fishing licenses, the Director and Executive Director shall specifically:

(a) Identify all types of fishing licenses issued for the purpose of taking fish in coastal fishing waters, both recreational and commercial.

(b) Identify the fees associated with these licenses.

- 1 (c) Identify the analogous licenses issued and fees charged by
- 2 states with fisheries profiles similar to those of North
- 3 Carolina, including at least South Carolina and Virginia.
- 4 (d) Recommend several levels of increases in the license fees
- 5 and calculate the amount of revenue that would be
- 6 generated by the different levels of increase.
- 7 (e) Identify any limitations under State or federal law on the
- 8 use of license fees for purposes not related to the
- 9 management of marine fisheries.
- 10 (2) For the numbering and titling of vessels, the Executive Director
- 11 shall specifically:
- 12 (a) Identify all requirements for the numbering and titling of
- 13 vessels.
- 14 (b) Determine if there is a method for differentiating between
- 15 vessels that are used predominantly in coastal fishing
- 16 waters versus those that are used predominantly in inland
- 17 fishing waters.
- 18 (c) Identify the fees associated with the numbering and titling
- 19 of vessels.
- 20 (d) Identify the analogous vessel numbering and titling
- 21 requirements and fees charged by states with coastal
- 22 boating profiles similar to those of North Carolina,
- 23 including at least South Carolina and Virginia.
- 24 (e) Recommend several levels of increases in the fees
- 25 associated with the numbering and titling of vessels and
- 26 calculate the amount of revenue that would be generated
- 27 by the different levels of increase.
- 28 (f) Identify any limitations under State or federal law on the
- 29 use of fees associated with the numbering and titling of
- 30 vessels.
- 31 (3) The Director and the Executive Director shall examine all other
- 32 sources of funding, including the gas tax.

33 **SECTION 3.** The Director of the Division of Marine Fisheries of the
34 Department of Environment and Natural Resources and the Executive Director of
35 the Wildlife Resources Commission shall jointly submit a report on the study
36 required by Section 2 of this act to the Legislative Research Commission
37 Committee on Marine Fisheries no later than September 1, 2012.

38 **SECTION 4.** This act is effective when it becomes law.

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2011

U

D

BILL DRAFT 2011-SBz-26 [v.3] (02/07)

(THIS IS A DRAFT AND IS NOT READY FOR INTRODUCTION)
3/7/2012 9:05:31 AM

Short Title: Prohibit Certain Harvest of Menhaden.

(Public)

Sponsors:

Referred to:

1 A BILL TO BE ENTITLED
2 AN ACT TO MAKE IT UNLAWFUL TO TAKE MENHADEN OR ATLANTIC
3 THREAD HERRING WITH A PURSE SEINE NET DEPLOYED BY A
4 MOTHER SHIP AND ONE OR MORE RUNNER BOATS IN COASTAL
5 FISHING WATERS.

6 The General Assembly of North Carolina enacts:

7 SECTION 1. G.S. 113-187 reads as rewritten:

8 "§ 113-187. Penalties for violations of Subchapter and rules.

9 (a) Any person who participates in a commercial fishing operation
10 conducted in violation of any provision of this Subchapter and its implementing
11 rules or in an operation in connection with which any vessel is used in violation of
12 any provision of this Subchapter and its implementing rules is guilty of a Class A1
13 misdemeanor.

14 (b) Any owner of a vessel who knowingly permits it to be used in violation
15 of any provision of this Subchapter and its implementing rules is guilty of a Class
16 A1 misdemeanor.

17 (c) Any person in charge of a commercial fishing operation conducted in
18 violation of any provision of this Subchapter and its implementing rules or in
19 charge of any vessel used in violation of any provision of this Subchapter and its
20 implementing rules is guilty of a Class A1 misdemeanor.

21 (d) Any person in charge of a commercial fishing operation conducted in
22 violation of the following provisions of this Subchapter or the following rules of
23 the Marine Fisheries Commission; and any person in charge of any vessel used in
24 violation of the following provisions of the Subchapter or the following rules,
25 shall be guilty of a Class A1 misdemeanor. The violations of the statute or the
26 rules for which the penalty is mandatory are:

- 1 (1) Taking or attempting to take, possess, sell, or offer for sale any
- 2 oysters, mussels, or clams taken from areas closed by statute,
- 3 rule, or proclamation because of suspected pollution.
- 4 (2) Taking or attempting to take or have in possession aboard a
- 5 vessel, shrimp taken by the use of a trawl net, in areas not opened
- 6 to shrimping, pulled by a vessel not showing lights required by
- 7 G.S. 75A-6 after sunset and before sunrise.
- 8 (3) Using a trawl net in any coastal fishing waters closed by
- 9 proclamation or rule to trawl nets.
- 10 (4) Violating the provisions of a special permit or gear license issued
- 11 by the Department.
- 12 (5) Using or attempting to use any trawl net, long haul seine, swipe
- 13 net, mechanical methods for oyster or clam harvest or dredge in
- 14 designated primary nursery areas.

15 (e) Any person who takes menhaden or Atlantic thread herring by the use
16 of a purse seine net deployed by a mother ship and one or more runner boats in
17 coastal fishing waters is guilty of a Class A1 misdemeanor."

18 **SECTION 2.** S.L. 2007-320 is repealed.

19 **SECTION 3.** This act becomes effective December 1, 2012, and
20 applies to offenses committed on or after that date.

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2011

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BILL DRAFT 2011-SBz-27 [v.9] (02/08)

(THIS IS A DRAFT AND IS NOT READY FOR INTRODUCTION)
4/5/2012 3:14:16 PM

Short Title: Legislative Oversight of Fish & Wildlife Mgmt.

(Public)

Sponsors:

Referred to:

1 A BILL TO BE ENTITLED
2 AN ACT TO ESTABLISH THE JOINT LEGISLATIVE COMMISSION ON
3 FISH AND WILDLIFE.

4 The General Assembly of North Carolina enacts:

5 SECTION 1. The caption to Article 12F of Chapter 120 of the General
6 Statutes reads as rewritten:

7 "Article 12F.

8 Joint Legislative Commission on ~~Seafood and Aquaculture~~ Fish and Wildlife."

9 SECTION 2. Article 12F of Chapter 120 of the General Statutes is
10 amended by adding three new sections to read:

11 "§ 120-70.67. Creation and membership of Joint Legislative Commission on
12 Fish and Wildlife.

13 (a) The Joint Legislative Commission on Fish and Wildlife is established.

14 (b) The Commission shall consist of 16 members as follows:

15 (1) Eight members of the Senate appointed by the President Pro
16 Tempore of the Senate, at least two of whom are members of the
17 minority party.

18 (2) Eight members of the House of Representatives appointed by the
19 Speaker of the House of Representatives, at least two of whom
20 are members of the minority party.

21 (b1) The President Pro Tempore of the Senate and the Speaker of the House
22 of Representatives shall ensure geographic diversity of membership in making the
23 appointments under subsection (b) of this section.

24 (c) Terms on the Commission are for two years and begin on the convening
25 of the General Assembly in each odd-numbered year. Members may complete a
26 term of service on the Commission even if they do not seek reelection or are not

1 reelected to the General Assembly, but resignation or removal from service in the
2 General Assembly constitutes resignation or removal from service on the
3 Commission. A member continues to serve until his successor is appointed.

4 **"§ 120-70.68. Purpose and powers and duties of Commission.**

5 (a) The Joint Legislative Commission on Fish and Wildlife shall exercise
6 legislative oversight over the management of fish and wildlife in the State. In the
7 exercise of this oversight, the Commission may do any of the following:

8 (1) Monitor and evaluate the programs, policies, and actions of the
9 Marine Fisheries Commission, the Division of Marine Fisheries
10 of the Department of Environment and Natural Resources, the
11 Wildlife Resources Commission, and of any other board,
12 commission, department, or agency of the State or local
13 government that manages fish and wildlife.

14 (2) Review and evaluate existing and proposed State statutes and
15 rules affecting the management of fish and wildlife in the State
16 and determine whether any modification of these statutes or rules
17 is in the public interest.

18 (3) Monitor changes in federal law and court decisions affecting the
19 management of fish and wildlife in the State.

20 (4) Monitor and evaluate fishing and hunting related industries in the
21 State and study measures to promote these industries.

22 (5) Study any other matters related to the management of fish and
23 wildlife in the State that the Commission considers necessary to
24 fulfill its mandate.

25 (b) The Commission may make reports and recommendations, including
26 proposed legislation, to the General Assembly from time to time as to any matter
27 relating to its oversight and the powers and duties set out in this section.

28 **"§ 120-70.69. Organization of Commission.**

29 (a) The President Pro Tempore of the Senate and the Speaker of the House
30 of Representatives shall each designate a cochair of the Joint Legislative
31 Commission on Fish and Wildlife. The Commission may meet at any time upon
32 the call of either cochair, whether or not the General Assembly is in session.

33 (b) A quorum of the Commission is eight members.

34 (c) While in the discharge of its official duties, the Commission has the
35 powers of a joint committee under G.S. 120-19 and G.S. 120-19.1 through
36 120-19.4. The Commission may contract for consultants or hire employees in
37 accordance with G.S. 120-32.02.

38 (d) From funds available to the General Assembly, the Legislative Services
39 Commission shall allocate monies to fund the Joint Legislative Commission on
40 Fish and Wildlife. Members of the Commission receive subsistence and travel
41 expenses as provided in G.S. 120-3.1. The Legislative Services Commission,
42 through the Legislative Services Officer, shall assign professional staff to assist
43 the Commission in its work. Upon the direction of the Legislative Services

1 Commission, the Supervisors of Clerks of the Senate and of the House of
2 Representatives shall assign clerical staff to the Commission. The expenses for
3 clerical employees shall be borne by the Commission."

4 **SECTION 3.** Section 1.2(a) of S.L. 2011-291 reads as rewritten:

5 "SECTION 1.2.(a) The duties of the following committees and
6 commissions are transferred to the Joint Legislative Commission on Governmental
7 Operations:

- 8 (1) Joint Legislative Oversight Committee on Capital Improvements.
- 9 (2) Joint Legislative Commission on Future Strategies for North
10 Carolina.
- 11 (3) Joint Select Committee on Low-Level Radioactive Waste.
- 12 (4) Legislative Committee on New Licensing Boards.
- 13 ~~(5) Joint Legislative Commission on Seafood and Aquaculture.~~
- 14 (6) Joint Legislative Utility Review Commission."

15 **SECTION 4.** G.S. 120-76 reads as rewritten:

16 **"§ 120-76. Powers and duties of the Commission.**

17 The Commission shall have the following powers:

- 18 (1) To conduct program evaluation studies of the various
19 components of State agency activity as they relate to:
 - 20 a. Service benefits of each program relative to expenditures;
 - 21 b. Achievement of program goals;
 - 22 c. Use of indicators by which the success or failure of a
23 program may be gauged; and
 - 24 d. Conformity with legislative intent.
- 25 (2) To study legislation which would result in new programs with
26 statewide implications for feasibility and need. These studies
27 may be jointly conducted with the Fiscal Research Division of
28 the Legislative Services Commission.
- 29 (3) To study on a continuing basis the implementation of State
30 government reorganization with respect to:
 - 31 a. Improvements in administrative structure, practices and
32 procedures;
 - 33 b. The relative effectiveness of centralization and
34 decentralization of management decisions for agency
35 operation;
 - 36 c. Opportunities for effective citizen participation; and
 - 37 d. Broadening of career opportunities for professional staff.
- 38 (4) To make such studies and reports of the operations and functions
39 of State government as it deems appropriate or upon petition by
40 resolution of either the Senate or the House of Representatives.
- 41 (5) To produce routine written reports of findings for general
42 legislative and public distribution. Special attention shall be
43 given to the presentation of findings to the appropriate
44 committees of the Senate and the House of Representatives. If
45 findings arrived at during a study have a potential impact on

1 either the finance or appropriations deliberations, such findings
2 shall immediately be presented to the committees. Such reports
3 shall contain recommendations for appropriate executive action
4 and when legislation is considered necessary to effect change,
5 draft legislation for that purpose may be included. Such reports
6 as are submitted shall include but not be limited to the following
7 matters:

- 8 a. Ways in which the agencies may operate more
9 economically and efficiently;
- 10 b. Ways in which agencies can provide better services to the
11 State and to the people; and
- 12 c. Areas in which functions of State agencies are duplicative,
13 overlapping, or failing to accomplish legislative
14 objectives, or for any other reason should be redefined or
15 redistributed.

16 (6) To devise a system, in cooperation with the Fiscal Research
17 Division of the Legislative Services Commission, whereby all
18 new programs authorized by the General Assembly incorporate
19 an evaluation component. The results of such evaluations may be
20 made to the Appropriations Committees at the beginning of each
21 regular session.

22 (7) To evaluate and approve or deny requests from the Department
23 of Transportation regarding the funding of federally eligible
24 construction projects as provided in the fourth paragraph of G.S.
25 136-44.2.

26 (8) The Joint Legislative Commission on Governmental Operations
27 shall be consulted by the Governor before the Governor does any
28 of the following:

- 29 a. Repealed by Session Laws 2007-117, s. 2, effective July
30 1, 2007.
- 31 b. Authorizes expenditures in excess of the total
32 requirements of a purpose or program as enacted by the
33 General Assembly and as provided by G.S. 143C-6-4.
- 34 c. Proceeds to reduce programs subsequent to a reduction of
35 ten percent (10%) or more in the federal fund level
36 certified to a department and any subsequent changes in
37 distribution formulas.
- 38 d. Takes extraordinary measures under Article III, Section
39 5(3) of the Constitution to effect necessary economies in
40 State expenditures required for balancing the budget due
41 to a revenue shortfall, including, but not limited to, the
42 following: loans among funds, personnel freezes or
43 layoffs, capital project reversions, program eliminations,

- 1 and use of reserves. However, if the Committee fails to
2 meet within 10 calendar days of a request by the Governor
3 for its consultation, the Governor may proceed to take the
4 actions he feels are appropriate and necessary and shall
5 then report those actions at the next meeting of the
6 Commission.
- 7 e. Approves a new capital improvement project funded from
8 gifts, grants, receipts, special funds, self-liquidating
9 indebtedness, and other funds or any combination of funds
10 for the project not specifically authorized by the General
11 Assembly. The budget for each capital project must
12 include projected revenues in an amount not less than
13 projected expenditures.
- 14 (9) To examine, on a continuing basis, capital improvements
15 approved and undertaken for State facilities and institutions and
16 to have oversight over implementation of the six-year capital
17 improvements plan developed pursuant to G.S. 143C-8-5.
- 18 (10) To establish a subcommittee to evaluate the need for any new
19 licensing board by establishing criteria and procedures for
20 reviewing proposed licensing boards. To assure that no new
21 licensing board shall be established unless the following criteria
22 are met:
- 23 a. The unregulated practice of the profession or occupation
24 can substantially harm or endanger the public health,
25 safety, or welfare, and the potential for such harm is
26 recognizable and not remote or dependent upon tenuous
27 argument.
- 28 b. The profession or occupation possesses qualities that
29 distinguish it from ordinary labor.
- 30 c. Practice of the profession or occupation requires
31 specialized skill or training.
- 32 d. A substantial majority of the public does not have the
33 knowledge or experience to evaluate whether the
34 practitioner is competent.
- 35 e. The public is not effectively protected by other means.
- 36 f. Licensure will not have a substantial adverse economic
37 impact upon consumers of the practitioner's goods or
38 services.
- 39 (11) To evaluate the North Carolina Utilities Commission, by doing
40 the following:
- 41 a. Reviewing the actions of the North Carolina Utilities
42 Commission, including the review of its interim and final
43 orders, to the end that the members of the General

1 Assembly may better judge whether these actions serve
2 the best interest of the citizens of North Carolina,
3 individual and corporate.

4 b. Inquiring into the role of the North Carolina Utilities
5 Commission, the Public Staff, and the several utility
6 companies in the development of alternate sources of
7 energy.

8 c. Submitting evaluations to the General Assembly, from
9 time to time, of the performance of the North Carolina
10 Utilities Commission, the Public Staff, and the various
11 utilities operating in the State. A proposed draft of such
12 evaluations shall be submitted to the North Carolina
13 Utilities Commission, the Public Staff, and the affected
14 public utilities prior to submission to the General
15 Assembly, and the affected entity shall be given an
16 opportunity to be heard before the Commission prior to
17 the completion of the evaluation and its submission to the
18 General Assembly.

19 (12) To make reports and recommendations to the General Assembly,
20 from time to time, on matters relating to the powers and duties
21 set out in this section.

22 (13) To review and evaluate changes in federal law and regulations,
23 relevant court decisions, and changes in technology affecting any
24 of the duties of the Commission.

25 (14) To review and evaluate changes in federal law and regulation, or
26 changes brought about by court actions, as well as changes in
27 technology affecting any of the duties of the Commission, to
28 determine whether the State's laws require modification as a
29 result of those changes.

30 ~~(15) With regard to seafood and aquaculture:~~

31 ~~a. To monitor and study the seafood industry in North~~
32 ~~Carolina, including studies of the feasibility of increasing~~
33 ~~the State's production, processing, and marketing of~~
34 ~~seafood.~~

35 ~~b. To study the potential for increasing the role of~~
36 ~~aquaculture in all regions of the State.~~

37 ~~c. To evaluate the feasibility of creating a central permitting~~
38 ~~office for fishing and aquaculture matters.~~

39 ~~d. To evaluate actions of the Division of Marine Fisheries of~~
40 ~~the Department of Environment and Natural Resources,~~
41 ~~the Wildlife Resources Commission of the Department of~~
42 ~~Environment and Natural Resources and of any other~~

1 State or local government agency as such actions relate to
2 the seafood and aquaculture industries.

3 e. ~~To make recommendations regarding regulatory matters~~
4 ~~relating to the seafood and aquaculture industries~~
5 ~~including, but not limited to evaluating the necessity to~~
6 ~~substantially increase penalties for trespass and theft of~~
7 ~~shellfish and other aquaculture products.~~

8 f. ~~To review and evaluate changes in federal law and~~
9 ~~regulations, relevant court decisions, and changes in~~
10 ~~technology affecting the seafood and aquaculture~~
11 ~~industries.~~

12 g. ~~To review existing and proposed State law and rules~~
13 ~~affecting the seafood and aquaculture industries and to~~
14 ~~determine whether any modification of law or rules is in~~
15 ~~the public interest."~~

16 **SECTION 5.** G.S. 113-175.6 reads as rewritten:

17 **"§ 113-175.6. Report.**

18 The Chair of the Marine Fisheries Commission and the Chair of the Wildlife
19 Resources Commission shall jointly submit to the Joint Legislative Commission
20 on ~~Governmental Operations~~Fish and Wildlife by October 1 of each year a report
21 on the Marine Resources Fund and the Endowment Fund that shall include the
22 source and amounts of all moneys credited to each fund and the purpose and
23 amount of all disbursements from each fund during the prior fiscal year."

24 **SECTION 6.** G.S. 113-182.1 reads as rewritten:

25 **"§ 113-182.1. Fishery Management Plans.**

26 (a) The Department shall prepare proposed Fishery Management Plans for
27 adoption by the Marine Fisheries Commission for all commercially or
28 recreationally significant species or fisheries that comprise State marine or
29 estuarine resources. Proposed Fishery Management Plans shall be developed in
30 accordance with the Priority List, Schedule, and guidance criteria established by
31 the Marine Fisheries Commission under G.S. 143B-289.52.

32 (b) The goal of the plans shall be to ensure the long-term viability of the
33 State's commercially and recreationally significant species or fisheries. Each plan
34 shall be designed to reflect fishing practices so that one plan may apply to a
35 specific fishery, while other plans may be based on gear or geographic areas. Each
36 plan shall:

- 37 (1) Contain necessary information pertaining to the fishery or
38 fisheries, including management goals and objectives, status of
39 relevant fish stocks, stock assessments for multiyear species,
40 fishery habitat and water quality considerations consistent with
41 Coastal Habitat Protection Plans adopted pursuant to G.S.
42 143B-279.8, social and economic impact of the fishery to the
43 State, and user conflicts.

- 1 (2) Recommend management actions pertaining to the fishery or
2 fisheries.
- 3 (3) Include conservation and management measures that will provide
4 the greatest overall benefit to the State, particularly with respect
5 to food production, recreational opportunities, and the protection
6 of marine ecosystems, and that will produce a sustainable
7 harvest.
- 8 (4) Repealed by Session Laws 2010-13, s. 1, effective June 23, 2010.
- 9 (5) Specify a time period, not to exceed two years from the date of
10 the adoption of the plan, for ending overfishing. This subdivision
11 shall only apply to a plan for a fishery that is not producing a
12 sustainable harvest.
- 13 (6) Specify a time period, not to exceed 10 years from the date of the
14 adoption of the plan, for achieving a sustainable harvest. This
15 subdivision shall not apply if the Fisheries Director determines
16 that the biology of the fish, environmental conditions, or lack of
17 sufficient data make implementing the requirements of this
18 subdivision incompatible with professional standards for
19 fisheries management.
- 20 (7) Include a standard of at least fifty percent (50%) probability of
21 achieving sustainable harvest for the fishery or fisheries. This
22 subdivision shall not apply if the Fisheries Director determines
23 that the biology of the fish, environmental conditions, or lack of
24 sufficient data make implementing the requirements of this
25 subdivision incompatible with professional standards for
26 fisheries management.

27 (c) To assist in the development of each Fishery Management Plan, the
28 Chair of the Marine Fisheries Commission shall appoint a fishery management
29 plan advisory committee. Each fishery management plan advisory committee shall
30 be composed of commercial fishermen, recreational fishermen, and scientists, all
31 with expertise in the fishery for which the Fishery Management Plan is being
32 developed.

33 (c1) The Department shall consult with the regional advisory committees
34 established pursuant to G.S. 143B-289.57(e) regarding the preparation of each
35 Fishery Management Plan. Before submission of a plan for review by the Joint
36 Legislative Commission on ~~Governmental Operations, Fish and Wildlife~~, the
37 Department shall review any comment or recommendation regarding the plan that
38 a regional advisory committee submits to the Department within the time limits
39 established in the Schedule for the development and adoption of Fishery
40 Management Plans established by G.S. 143B-289.52. Before the Commission
41 adopts a management measure to implement a plan, the Commission shall review
42 any comment or recommendation regarding the management measure that a
43 regional advisory committee submits to the Commission.

1 (d) Each Fishery Management Plan shall be reviewed at least once every
2 five years. The Marine Fisheries Commission may revise the Priority List and
3 guidance criteria whenever it determines that a revision of the Priority List or
4 guidance criteria will facilitate or improve the development of Fishery
5 Management Plans or is necessary to restore, conserve, or protect the marine and
6 estuarine resources of the State. The Marine Fisheries Commission may not revise
7 the Schedule for the development of a Fishery Management Plan, once adopted,
8 without the approval of the Secretary of Environment and Natural Resources.

9 (e) The Secretary of Environment and Natural Resources shall monitor
10 progress in the development and adoption of Fishery Management Plans in
11 relation to the Schedule for development and adoption of the plans established by
12 the Marine Fisheries Commission. The Secretary of Environment and Natural
13 Resources shall report to the Joint Legislative Commission on ~~Governmental~~
14 ~~Operations~~Fish and Wildlife on progress in developing and implementing the
15 Fishery Management Plans on or before 1 September of each year. The Secretary
16 of Environment and Natural Resources shall report to the Joint Legislative
17 Commission on ~~Seafood and Aquaculture~~Fish and Wildlife within 30 days of the
18 completion or substantial revision of each proposed Fishery Management Plan.
19 The Joint Legislative Commission on ~~Governmental Operations~~Fish and Wildlife
20 shall review each proposed Fishery Management Plan within 30 days of the date
21 the proposed Plan is submitted by the Secretary. The Joint Legislative
22 Commission on ~~Governmental Operations~~Fish and Wildlife may submit comments
23 and recommendations on the proposed Plan to the Secretary within 30 days of the
24 date the proposed Plan is submitted by the Secretary.

25 (e1) If the Secretary determines that it is in the interest of the long-term
26 viability of a fishery, the Secretary may authorize the Commission to develop
27 temporary management measures to supplement an existing Fishery Management
28 Plan pursuant to this subsection. Development of temporary management
29 measures pursuant to this subsection is exempt from subsections (c), (c1), and (e)
30 of this section and the Priority List, Schedule, and guidance criteria established by
31 the Marine Fisheries Commission under G.S. 143B-289.52. During the next
32 review period for a Fishery Management Plan supplemented pursuant to this
33 subsection, the Commission shall either incorporate the temporary management
34 measures into the revised Fishery Management Plan or the temporary management
35 measures shall expire on the date the revised Fishery Management Plan is adopted.

36 (f) The Marine Fisheries Commission shall adopt rules to implement
37 Fishery Management Plans in accordance with Chapter 150B of the General
38 Statutes.

39 (g) To achieve sustainable harvest under a Fishery Management Plan, the
40 Marine Fisheries Commission may include in the Plan a recommendation that the
41 General Assembly limit the number of fishermen authorized to participate in the
42 fishery. The Commission may recommend that the General Assembly limit
43 participation in a fishery only if the Commission determines that sustainable

1 harvest cannot otherwise be achieved. In determining whether to recommend that
2 the General Assembly limit participation in a fishery, the Commission shall
3 consider all of the following factors:

- 4 (1) Current participation in and dependence on the fishery.
- 5 (2) Past fishing practices in the fishery.
- 6 (3) Economics of the fishery.
- 7 (4) Capability of fishing vessels used in the fishery to engage in
8 other fisheries.
- 9 (5) Cultural and social factors relevant to the fishery and any
10 affected fishing communities.
- 11 (6) Capacity of the fishery to support biological parameters.
- 12 (7) Equitable resolution of competing social and economic interests.
- 13 (8) Any other relevant considerations."

14 **SECTION 7.** G.S. 113-200(i) reads as rewritten:

15 "(i) Report on Grant Program. – The Sea Grant College Program shall report
16 on the Fishery Resource Grant Program to the Marine Fisheries Commission and
17 the Joint Legislative Commission on ~~Governmental Operations~~ Fish and Wildlife
18 no later than January 1 of each year."

19 **SECTION 8.** G.S. 143B-279.8 reads as rewritten:

20 "**§ 143B-279.8. Coastal Habitat Protection Plans.**

21 (a) The Department shall coordinate the preparation of draft Coastal Habitat
22 Protection Plans for critical fisheries habitats. The goal of the Plans shall be the
23 long-term enhancement of coastal fisheries associated with each coastal habitat
24 identified in subdivision (1) of this subsection. The Department shall use the staff
25 of those divisions within the Department that have jurisdiction over marine
26 fisheries, water quality, and coastal area management in the preparation of the
27 Coastal Habitat Protection Plans and shall request assistance from other federal
28 and State agencies as necessary. The plans shall:

- 29 (1) Describe and classify biological systems in the habitats,
30 including wetlands, fish spawning grounds, estuarine or aquatic
31 endangered or threatened species, primary or secondary nursery
32 areas, shellfish beds, submerged aquatic vegetation (SAV) beds,
33 and habitats in outstanding resource waters.
- 34 (2) Evaluate the function, value to coastal fisheries, status, and
35 trends of the habitats.
- 36 (3) Identify existing and potential threats to the habitats and the
37 impact on coastal fishing.
- 38 (4) Recommend actions to protect and restore the habitats.

39 (b) Once a draft Coastal Habitat Protection Plan has been prepared, the
40 chairs of the Coastal Resources Commission, the Environmental Management
41 Commission, and the Marine Fisheries Commission shall each appoint two
42 members of the commission he or she chairs to a six-member review committee.
43 The six-member review committee, in consultation with the Department, shall

1 review the draft Plan and may revise the draft Plan on a consensus basis. The draft
2 Plan, as revised by the six-member review committee, shall then be submitted to
3 the Coastal Resources Commission, the Environmental Management Commission,
4 and the Marine Fisheries Commission, each of which shall independently consider
5 the Plan for adoption. If any of the three commissions is unable to agree to any
6 aspect of a Plan, the chair of each commission shall refer that aspect of the Plan to
7 a six-member conference committee to facilitate the resolution of any differences.
8 The six-member conference committee shall be appointed in the same manner as a
9 six-member review committee and may include members of the six-member
10 review committee that reviewed the Plan. Each final Coastal Habitat Protection
11 Plan shall consist of those provisions adopted by all three commissions. The three
12 commissions shall review and revise each Coastal Habitat Protection Plan at least
13 once every five years.

14 (c) In carrying out their powers and duties, the Coastal Resources
15 Commission, the Environmental Management Commission, and the Marine
16 Fisheries Commission shall ensure, to the maximum extent practicable, that their
17 actions are consistent with the Coastal Habitat Protection Plans as adopted by the
18 three commissions. The obligation to act in a manner consistent with a Coastal
19 Habitat Protection Plan is prospective only and does not oblige any commission to
20 modify any rule adopted, permit decision made, or other action taken prior to the
21 adoption or revision of the Coastal Habitat Protection Plan by the three
22 commissions. The Coastal Resources Commission, the Environmental
23 Management Commission, and the Marine Fisheries Commission shall adopt rules
24 to implement Coastal Habitat Protection Plans in accordance with Chapter 150B
25 of the General Statutes.

26 (d) If any of the three commissions concludes that another commission has
27 taken an action that is inconsistent with a Coastal Habitat Protection Plan, that
28 commission may request a written explanation of the action from the other
29 commission. A commission shall provide a written explanation: (i) upon the
30 written request of one of the other two commissions, or (ii) upon its own motion if
31 the commission determines that it must take an action that is inconsistent with a
32 Coastal Habitat Protection Plan.

33 (e) The Coastal Resources Commission, the Environmental Management
34 Commission, and the Marine Fisheries Commission shall report to the Joint
35 Legislative Commission on ~~Governmental Operations~~ Fish and Wildlife and the
36 Environmental Review Commission on progress in developing and implementing
37 the Coastal Habitat Protection Plans, including the extent to which the actions of
38 the three commissions are consistent with the Plans, on or before 1 September of
39 each year.

40 (f) The Secretary of Environment and Natural Resources shall report to the
41 Environmental Review Commission and the Joint Legislative Commission on
42 ~~Seafood and Aquaculture~~ ~~Joint Legislative Commission on Governmental~~
43 ~~Operations~~ Fish and Wildlife within 30 days of the completion or substantial

Appendix D

1 revision of each draft Coastal Habitat Protection Plan. The Environmental Review
2 Commission and the Joint Legislative Commission on ~~Governmental~~
3 ~~Operations~~Fish and Wildlife shall concurrently review each draft Coastal Habitat
4 Protection Plan within 30 days of the date the draft Plan is submitted by the
5 Secretary. The Environmental Review Commission and the Joint Legislative
6 Commission on ~~Governmental Operations~~Fish and Wildlife may submit comments
7 and recommendations on the draft Plan to the Secretary within 30 days of the date
8 the draft Plan is submitted by the Secretary."

9 **SECTION 9.** This act becomes effective January 1, 2013.